



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject **ACTION:** Advance Payment Option for
Transportation Enhancements

Date May 31, 1996

From Rodney E. Slater
Administrator

Reply to
Attn of HEP-30

To
Regional Administrators

Section 316 of the National Highway System Designation Act of 1995 (NHSDA) amends 23 U.S.C. 133(e) to give States the option of requesting advance payment for transportation enhancements. This provides a mechanism for easing cash flow problems experienced by some project sponsors by allowing funds to be advanced rather than reimbursed. This memorandum provides procedures for implementing this option. We request that you discuss with your States their interest in taking advantage of this new legislative flexibility.

Under the statute, the advance payment option is only available "if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities." To take advantage of the advance payment option, States should provide information to FHWA demonstrating that its project selection process meets the statutory test of agency and citizen involvement. While it is up to each Division Administrator to be convinced that such agency and citizen involvement is real and substantive, this test might be met by the existence of broad-based advisory committees at the State or sub-State level, or other evidence of effective citizen participation and agency coordination processes in which transportation enhancement activities are addressed.

Qualifying States which desire to take advantage of the advance payment option should work with the FHWA division office to agree upon the specific procedure to be followed. The procedure should assure that the advance of funds be "limited to such amounts as are necessary to make prompt payments for project costs." For example, a State might base its request for advance payments on a payment schedule established for each project. The current bill would include such advances. The FHWA could verify the process as needed through a process review or other method.



A copy of the pertinent portion of Section 316 of the NHSDA is attached for your convenience. Questions on the process for certifying States for using the advance payment option should be directed to Harold Peaks at 202-366-1598. Questions on the mechanics of advance payment should be directed to Tom Park at 202-366-2845.

Attachment

The following is an excerpt from the pertinent portion of Section 316 of the NHS Bill:

Section 133(e) of title 23, United States Code, is amended--

(1) in paragraph (3)--

(A) by striking '(3) PAYMENTS- The' and inserting the following:

'(3) PAYMENTS-

'(A) IN GENERAL-Except as provided in subparagraph (B), the';

(B) by moving the remainder of the text of subparagraph (A), as designated by subparagraph (A) of this paragraph, 2 ems to the right; and

(C) by adding at the end the following:

'(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION
ENHANCEMENT ACTIVITIES-

'(I) IN GENERAL- The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

'(ii) LIMITATION ON AMOUNTS- Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

'(iii) EFFECT ON OTHER REQUIREMENTS- This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.'; and